

GAMING REGULATION IN NEVADA

An Update...



State Gaming Control Board
and
Nevada Gaming Commission

July 2006

Introduction

The origin of this publication was a booklet titled “Gaming Nevada Style.” It was published by the Nevada Gaming Commission and the State Gaming Control Board when Nevada was the only state permitting legalized gaming. In 2006, 48 states now offer some form of legalized gaming. Obviously, the intervening years have seen many changes and an update was necessary.

Since the first publication of Gaming Nevada Style, there have been numerous books written on gaming and gaming regulation in Nevada. The purpose of “Gaming Regulation in Nevada An Update...” is not to repeat these other texts, but rather provide a primer regarding the gaming regulators in the state of Nevada.

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Nevada's Public Policy on Gaming

Nevada Revised Statute 463.0129(1) provides a summary of the public policy¹ of Nevada regarding gaming. All gaming regulatory decisions must reflect these public policy mandates. Specifically,

(a) The gaming industry is vitally important to the economy of the State and the general welfare of the inhabitants.

(b) The continued growth and success of gaming is dependent upon public confidence and trust that licensed gaming and the manufacture, sale and distribution of gaming devices and associated equipment are conducted honestly and competitively, that establishments which hold restricted and nonrestricted licenses where gaming is conducted and where gambling devices are operated do not unduly impact the quality of life enjoyed by residents of the surrounding neighborhoods, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

(c) Public confidence and trust can only be maintained by strict regulation of all persons, locations, practices, associations and activities related to the operation of licensed gaming establishments, the manufacture, sale or distribution of gaming devices and associated equipment and the operation of inter-casino linked systems.

(d) All establishments where gaming is conducted and where gaming devices are operated, and manufacturers, sellers and distributors of certain gaming devices and equipment, and operators of inter-casino linked systems must therefore be licensed, controlled and assisted to protect the public health, safety, morals, good order and general welfare of the inhabitants of the State, to foster the stability and success of gaming and to preserve the competitive economy and policies of free competition of the State of Nevada.

(e) To ensure that gaming is conducted honestly, competitively and free of criminal and corruptive elements, all gaming establishments in this state must remain open to the general public and the access of the general public to gaming activities must not be restricted in any manner except as provided by the Legislature.

¹ See also, NRS 463.489 (corporations), 463.563 (limited partnerships), 463.573 (limited liability companies) and 463.622 (corporate acquisitions).

The History

THE EARLY HISTORY

Gambling is not something peculiar to modern day Nevada, for gaming in this area dates back to at least 300 BC. Archaeological discoveries in Clark County, Nevada show that early day inhabitants of the area practiced gambling more than 2,000 years ago.²

In 1861, while Nevada was still a territory, the first prohibition on all forms of gaming was made into law. In 1869, the Nevada Legislature legalized gaming in spite of the Governor's veto. This law approved numerous games and imposed the first license fee.

Between 1869 and 1907, many changes in gambling regulations and license fees were made, with the main concern being where and when gaming could be conducted. The 1907 Legislature redistributed gaming fee revenues so that all fees, except those from slot machines, were retained by the county, while slot machine fees went into the state coffers.

In 1909, gaming in all forms was again prohibited effective October 1, 1910. Violations of the new law were felonies, and law enforcement officers were authorized to "break down doors" to seize and destroy gaming equipment. On Governor Oddie's recommendation, the 1915 Legislature somewhat relaxed this prohibition by permitting slot machines and certain social games, provided the play was for drinks, cigars or other prizes whose value did not exceed \$2. Also permitted were games in which the deal changed after each hand. The operators of these games were required to have licenses.

During the years this law remained on the books, enforcement became less and less effective. The number of illegal operations increased, taking business from the legal establishments and consequently causing a decrease in state and local licensee fees.

BIRTH OF THE MODERN ERA

Nevada began its modern era of legalized gambling in 1931, when Governor Balzar signed Assemblyman Tobin's so-called "wide open gambling" bill.

A schedule of license fees for all games and machines was established by this bill, with the counties assuming the responsibility for the licensing and for the collection of fees. Twenty-five percent of this revenue went into the state general fund, and the remainder stayed in the counties. If the gaming establishment was located in a city or town, 25 percent of the collections was allocated to the local government.

² See, The Nevada State Museum anthropological papers (No. 1, June 1962) for further details.

There were various reasons why gambling was re-approved in 1931, not the least of which was the dissatisfaction with the widespread illegal gambling that came into existence under the previous laws.

In a report presented to the 1960 Legislature, it was noted:

Another major factor which prompted legalized gambling was the hope that it would enhance business which had suffered severely in the nationwide depression. Another effort to attract business was the Legislature's passage of the six-week divorce bill in 1931 after passage of a liberal divorce bill in Arkansas. Governor Balzar signed the new divorce law on March 19, the same day he signed the new gambling bill. Finally it was recognized that legalized gambling would provide an additional source of tax revenue and needed relief from other taxes. As stated by the *Nevada State Journal* on January 18, prior to passage of the bill, "There is a strong sentiment, particularly in Southern Nevada, that some state or municipal revenue should be derived from the games which now run on every hand with apparent sanction of public sentiment...."

Most of the nation's press believed Nevada's experiment was doomed to failure. In fact, growth of the industry was slow for the first 10 years, and by 1941, gaming had increased only 49 percent (over the 1931-32 level). However, in the three-year period from 1941 through 1944, industry growth increased another 56 percent and averaged almost 19 percent for each of the three years.

That last three-year period can be considered the dividing point between the early history and the modern era of gaming in Nevada.

Modern Era of Gaming in Nevada

Nevada's casinos catered to the local gamblers. There was no concerted effort to lure big time gamblers from out of the state. During this time, Reno and other parts of Washoe County were the leading jurisdictions, both in population and in the amount of gambling.

Las Vegas, prior to World War II, had been little more than a water stop on the Union Pacific Railroad. Even in 1940, Clark County accounted for less than 15 percent of the state's total population. By the mid-forties, however, a regional change was beginning.

TURNING POINT

In December 1946, the Flamingo opened outside the city limits of Las Vegas on the highway to Los Angeles. This was Nevada's first major resort hotel casino, and it marked the turning point in the history of Nevada's gaming industry. Today, the hotel casino resorts on the Strip and in Clark County have the dominant position in the state.

NEW CONCEPT IN LICENSING

At about the same time the style of gaming in Southern Nevada was changing, the State Legislature introduced a new concept in licensing. A state licensing requirement was enacted with fees based on a percentage of gross gaming win. This fee was in addition to the previously established county license fees, which were based on the number of games and machines to be operated.

The Nevada Tax Commission was designated as the administrative agency under this new licensing requirement. The fees collected went into the state general fund, with a maximum of five percent of total collections set apart for administrative costs.

Aside from changes in fees, there were no major legislative changes until 1955.

THE CREATION OF THE GAMING AGENCIES

The 1955 Legislature created the Nevada Gaming Control Board ("Board") within the Nevada Tax Commission, whose purpose was to inaugurate a policy to eliminate the undesirable element in Nevada gaming and to provide regulations for the licensing and the operation of gaming. The Board was also to establish rules and regulations for all tax reports that were to be submitted to the state by gaming licensees.

The Board then and now consists of three full-time members who are appointed by the Governor to a four-year term.

GAMING CONTROL ACT

In 1959, the Nevada Gaming Commission (“Commission”) was created by the passage of the Gaming Control Act (“Act”). As detailed later, the Commission acts as the final arbiter of all licensing matters by acting on the Board’s recommendations for licensing.

The Act laid the foundation for what would become modern gaming regulation. The phenomenal growth of gaming in the State would not have occurred but for the foresight exhibited by Governor Sawyer and the Legislature in enacting the Act and creating the two-tiered gaming regulatory structure.

GAMING POLICY COMMITTEE

A Gaming Policy Board, whose exclusive purpose was to discuss matters of gaming policy, was created by legislation in 1961.

Currently, the Gaming Policy Committee (“Committee”) is an eleven-member committee comprised of: the Governor (who chairs the Committee); one member of the State Senate; one member of the State Assembly; one member of the Nevada Gaming Commission; one member of the State Gaming Control Board; one member of a Nevada Indian tribe; and five members appointed by the Governor (two representatives of the general public, two representatives of nonrestricted gaming licensees, and one representative of a restricted gaming licensee).

The Committee meets at the call of the Governor to discuss matters of gaming policy.

Recommendations concerning gaming policy made by this committee are advisory to the Commission. The recommendations of the Committee are not binding on the Board or the Commission in the performance of their duties.

The Nevada Gaming Commission

The Commission, created by the 1959 State Legislature, is a five-member lay body appointed by the governor to four year terms. The Commissioners serve in a part-time capacity.

The primary responsibility of the Commission is to act on the recommendations of the Board in licensing matters. The Commission is the final authority on licensing matters, holding the power to approve, restrict, limit, condition, deny, revoke or suspend any gaming license.

The Commission is also charged with the responsibility of adopting, amending and repealing the gaming regulations consistent with the State's policies, objectives, and statutory purposes.

When the Board desires to impose discipline against a gaming licensee for violations of the Act or the Commission's Regulations, the Board acts in a prosecutorial capacity and the Commission acts in a judicial capacity to decide whether the Commission will impose a sanction against a licensee for any such violations.

Current information regarding the Commission can be accessed through the Commission's website http://gaming.nv.gov/ngc_main.htm.

The State Gaming Control Board

The Board is comprised of three members appointed by the governor for four-year terms, with one member acting as Chairman. The Gaming Control Act details the separate professional experience and requirements of each Board Member.³

The Board has seven divisions: Investigations; Corporate Securities; Technology; Audit; Enforcement; Tax and License; and Administration. As of the date of this writing, the Board employs approximately 450 individuals.

Current information regarding the Board can be accessed at the Board's website <http://gaming.nv.gov/>

INVESTIGATIONS DIVISION

The Investigations Division is responsible for the investigations of all individuals and privately held business entities that desire to be involved in gaming in the State of Nevada.

The Division's staff conducts the personal and corporate investigation process, which includes an exhaustive examination of the applicant's personal and financial history.

Current information regarding the Investigations Division can be accessed at the Division's website http://gaming.nv.gov/inv_main.htm.

CORPORATE SECURITIES DIVISION

The Corporate Securities Division is responsible for the investigation of publicly traded corporations that desire to be involved in gaming in the State of Nevada.

The Division is further responsible for the on-going review and monitoring of such companies after licensure, as well as monitoring all gaming activity conducted by Nevada's licensees outside the State.

Current information regarding the Corporate Securities Division can be accessed at the Division's website http://gaming.nv.gov/corpsec_main.htm.

TECHNOLOGY DIVISION

The Technology Division is responsible for reviewing and testing all gaming devices and associated equipment that is deployed in the State of Nevada.

³ See NRS 463.040.

The Division's laboratory is the oldest gaming testing facility. Testing and monitoring of gaming devices is designed to ensure the gaming patron's confidence in the integrity of the gaming devices.

Current information regarding the Technology Division can be accessed at the Division's website http://gaming.nv.gov/tech_main.htm.

AUDIT DIVISION

The Audit Division is responsible for auditing Nevada's largest licensees to ensure that all gaming revenue has been properly reported and that all related taxes have been remitted to the State.

The Division has developed minimum internal control standards for casino accounting, and it monitors the financial operations of the gaming licensees and reports on any concerns that may impact the declared public policies.

Current information regarding the Audit Division can be accessed at the Division's web site http://gaming.nv.gov/audit_main.htm.

TAX AND LICENSE DIVISION

The Tax and License Division is responsible for reviewing the financial performance of the smaller gaming licensees and the administration of all tax and licensing matters for the Board.

Current information regarding the Tax and License Division can be accessed at the Division's website http://gaming.nv.gov/tl_main.htm.

ENFORCEMENT DIVISION

The Enforcement Division is the Board's law enforcement arm. It is charged with investigating and prosecuting criminal and administrative violations of the State's gaming laws.

The Division also handles customer disputes brought by gaming patrons against a gaming licensee. This ensures that the State maintains the public's trust and confidence that gaming in the State of Nevada is conducted honestly, competitively and free of corruptive elements.

Current information regarding the Enforcement Division can be accessed at the Division's website http://gaming.nv.gov/enf_main.htm.

ADMINISTRATION DIVISION

The Administration Division handles the day-to-day administration of the Board, including personnel, budget, records and file retention.

Additionally, the Division, with the Board Chairman, works with the State Legislature on the Board's budget and legislative matters.

Current information regarding the Administrative Division can be accessed at the Division's website http://gaming.nv.gov/admin_main.htm.

Licensing and Taxation

Gaming is the primary economic industry in the State of Nevada and provides a significant amount of revenue to the state. The economic success is dependent on the effective and thorough licensing of individuals and entities involved in gaming in the State.

LICENSING STATISTICS

As of June 30, 2005, there were over 2,900 licenses issued to conduct some form of gaming (or the manufacturing of gaming devices) in the State.

TYPES OF GAMING LICENSES

While numerous types of licenses and approvals can be granted by the Commission, there are key gaming licenses: the nonrestricted gaming license; the restricted gaming license; the manufacturer's license; and the slot route operator's license.

A nonrestricted gaming license is granted for the operation of: (1) a property having 16 or more slot machines; (2) a property having any number of slot machines together with any other game, gaming device, race book or sports pool at one location; (3) a slot machine route; (4) an inter-casino linked system; or (5) a mobile gaming system.

A restricted gaming license applies to the operation of 15 or less gaming devices (and no table games) at a location.

Additionally, all manufacturers and distributors of gaming devices must be licensed by the Commission.

At <http://gaming.nv.gov/publications.htm>, the Board maintains a current listing of all nonrestricted licensees, restricted licensees, licensed manufacturers, distributors and slot route operators.

The Board and the Commission also have statutory authority to require the licensure of any individual or entity that: (1) has influence over any gaming operations in the state of Nevada; (2) shares in gaming revenues with a licensee; (3) is a lender to a gaming licensee; or (4) is the owner of land upon which gaming is conducted.

In short, Nevada requires approvals and licenses for transactions which affect the ownership and/or control of any gaming operation in the State and for any individual who could exert any similar influence.

GAMING TAXATION

Nevada has several forms of gaming taxation: (1) a gaming tax on gross revenues; (2) an annual and quarterly tax on each gaming device; and (3) an annual and quarterly tax on tables games.

The gaming tax on gross revenues is graduated as follows:

- 3.5% on the first \$50,000 of gross gaming revenue during the month, plus
- 4.5% on the next \$84,000 of gross gaming revenues, plus
- 6.75% on gross gaming revenues exceeding \$134,000.

Gaming devices are taxed on an annual and quarterly basis as follows:

- An annual fee of \$250 per machine, plus
- A quarterly fee of \$20 per machine.

Table games are taxed on an annual basis (1 game--\$100; 2 games--\$200; 3 games--\$400; 4 games--\$750; 5 games--\$1,750; 6-7 games--\$3,000; 8-10 games--\$6,000; 11-13 games--\$650 per game; 14-16 games--\$1,000 per game; and 17 or more games--\$16,000 plus \$200 for each game over 16) and a quarterly basis (1-16 games--a fee of \$500 per game; 17-26 games--a fee \$4,800 for each game from 17-26 games; 27-35 games--a fee \$2,800 for each game from 27-35 games; and 36 or more games \$100 for each game).

Under the Act, the failure to pay such taxes within 30 days will automatically result in the surrender of the gaming license and require the immediately closure of the gaming operations.

The Board publishes a monthly report reflecting total gaming win and percentage fee tax collections for nonrestricted licensees for the month and the comparative data from the prior year. The Abbreviated Revenue Releases from 1998 to present can be accessed at <http://gaming.nv.gov/mrrindex.htm>.

The Board also publishes an annual financial analysis of those nonrestricted gaming licensees producing \$1 million or more in gaming revenue in the fiscal year (July 1 to June 30)⁴. These reports are referred to as the Annual Nevada Gaming Abstract Reports. The Annual Nevada Gaming Abstract Reports are available for the period from 1990 to present and can be accessed at http://gaming.nv.gov/abstract_rpts.htm.

⁴ The State of Nevada's fiscal year.

Conclusion

While the public policy for gaming in Nevada is only 280 words in length, it provides the core basis for the Gaming Control Act, the Nevada Gaming Commission's Regulations and all the decisions and actions of the Board and the Commission. These decisions and actions give vital support to the integrity of Nevada's primary revenue-generating industry and its status as the world's premier gaming, resort and entertainment destination.

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